

**DRAFT**



CITY OF GAITHERSBURG  
MINUTES OF A REGULAR CITY COUNCIL MEETING  
MONDAY, MAY 21, 2007

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A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Edens, Marraffa, Schlichting (arrived 7:35 p.m.), and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Director of Public Works, Parks Maintenance and Engineering Arnoult, Planning and Code Administration Director Ossont, Community Development Director Kauffmann, Information Technology Director Cottrell, Human Resources Director Kee, Planners Robinson, Marsh and Patula, Environmental Services Director Shingara, City Attorney Borten and Executive Assistant Stokes.

**I. PLEDGE OF ALLEGIANCE**

The Pledge was led by Will Redman, Troop 926, St. Martin's Church, Gaithersburg, Maryland.

**II. INVOCATION**

The invocation was led by Rick Price, First Church of Christ, Scientist, Gaithersburg, Maryland.

**III. APPROVAL OF MINUTES**

Motion was made by Council Member Marraffa, seconded by Council Member Sesma, that the minutes of the Mayor and Council meeting held May 7, 2007, be approved with correction.

Vote: 3-0-1 (Abstained: Alster)

**IV. CONSENT ITEMS**

**1. Resolution of the Mayor and City Council Authorizing the City Manager to Enter Into a Contract for the Installation of Decorative Crosswalks on Brookes and Maryland Avenues**

This resolution authorized the City Manager to enter into a contract with A-Annandale, Inc., 3456 Canal road, P.O. Box 249, Dumfries, Virginia 22026, in the amount of Seventy Thousand Dollars (\$70,000); said funds to be expended from the Capital Improvements Budget.

**2. Resolution of the Mayor and City Council Authorizing the City Manager to Enter Into a Contract to Provide Seven (7) Ornamental Entry Features to be Installed on Brookes and Maryland Avenues**

This resolution authorized the City Manager to enter into a contract with Erie Landmark Company, 637 Hempfield Hill Road, Columbia, Pennsylvania 17512, in the amount of Seventeen Thousand One Hundred Thirty-One Dollars (\$17,131); said funds to be expended from the Capital Improvements Budget.

3. **Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract for Environmental Assessment Services for the Nike Site**

This resolution authorized the City Manager to enter into a contract with ARM Group, Inc., 8965 Guilford Road, Suite 100, Columbia, Maryland 21046, in an amount not to exceed Sixty-One Thousand Eight Hundred Twenty-Two Dollars (\$61,822); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Alster, seconded by, Council Member Edens, that Consent Agenda (Resolution Nos. R-41-07 through R-43-07), be approved.

Vote: 4-0

V. **PRESENTATIONS**

**Proclamations**

- designating May 27, 2007, as “**Rachel Carson Day**” in the City of Gaithersburg. Accepting the proclamation were Principal Lawrence Chep, ESOL Teacher Mary Ann Szymkowiak, school staff and students. The school celebrates a visionary woman whose actions and impassioned beliefs have earned her the respected title of mother of the modern environmental movement.
- designating June 9, 2007, as “**Kentlands House & Garden Tour Day**” in the City of Gaithersburg. Accepting the proclamation were Sally Marchessault and Jan Anderson. The tour will raise money for Hospice Caring, Inc., The Kentlands Community Foundation and the Kentlands Garden Club.
- designating 2007, as “**COG’s 50<sup>th</sup> Anniversary Year**” in the City of Gaithersburg. Accepting the proclamation was City Council Member Schlichting, member of the Board of Directors for the Metropolitan Washington Council of Governments.

VI. **PUBLIC APPEARANCES**

1. *Cathy Drzyzgula, 16 Walker Avenue*, submitted stats and urged the City Council to address policing needs for the City to decrease the rate of violent crimes. Stated that the Historic Preservation Advisory Committee did visit the additional residential sites on the Crown Farm property. Made a suggestion to consider the house on the northern section close to Sam Eig Highway for historic designation.
2. *Ed Ridgley, 14 Walker Avenue*, expressed support for the funding of the clock tower project and opposition to the sale of alcohol at the 7-Eleven located at 211 North Frederick Avenue and asked that their license not be renewed.
3. *Steve Shrimen, Gaithersburg resident*, Board of Director at the Brighton Community Association, expressed support for the parking only by permit on West Deer Park and the association cul-de-sacs. Urged the Mayor and City Council to control overcrowding in residential homes in Gaithersburg.
4. *Mike Strumborg*, thanked Mayor Katz and Council Vice President Alster for their presence at the alcohol sales hearing and asked for the City’s support at the upcoming hearing on June 7, 2007. Submitted a transcript of the previous hearing.

**VII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS****Council Member Schlichting**

1. Referred to the budget work session scheduled for June 11, 2007 and suggested that the City consider the option to allocate funds from the funds balance from the aquatic recreation center to the clock tower project.
2. Announced the City will honor those that serve our country during the annual Memorial Day observance on Wednesday, May 30, 11 a.m. at Christman Park located on West Deer Park Road.

**Council Member Alster**

Attended the Hispanic Cultural Festival at the Activity Center at Bohrer Park where various groups performed and celebrated the various cultures. He mentioned that the Chairman of the Federal Reserve Ben Bernanke also attended the event.

**Council Member Marraffa**

Wished retired Police Chief Viverette a Bon Voyage.

**Council Member Sesma**

1. Welcomed newly hired Police Chief John King.
2. Thanked the students from Rachel Carson who were in attendance to receive a proclamation and reminded the public of their school's namesake and the importance to be environmental conscious.
3. Had breakfast with Executive Director John Paukstis of Habitat for Humanity of Montgomery County and asked that the City invite the organization to come before the Mayor and City Council and give a presentation.
4. Referred to the budget discussions held on May 17, 2007 to resolve a number of issues. He asked staff to provide additional funds in the budget for the homeownership program for residents displaced by the Broadstone and Archstone projects and made the following motion:

Motion was made by Council Member Sesma, seconded by Council Member Schlichting, that \$250,000 be transferred from the contingency capital budget to the operating budget for the housing program.

Several Council Members understood the issue, but did not support a vote at the moment. There were concerns with voting to transfer funds in the FY 2008 budget without having further review and discussions. It was suggested to make decisions on transferring funds from the funds balance during the upcoming work session. City Manager Humpton asked the City Council for guidance on any additional transferring of funds as part of the overall review of the budget and the clock tower project during the June 11, 2007 budget work session. All concurred that during said work session, the focus be on specific issues such as the clock tower funding and undesignated funds balance, and any additional amendments as part of the FY 2008 budget process.

Vote: Motion was withdrawn to allow for additional discussion on June 11, 2007 and for staff to receive guidance from the Mayor and City Council for any other amendments to the budget document.

**Mayor Katz**

Announced the following meeting schedule:

- no work session on Monday, May 29, 2007
- no regular meeting on June 4, 2007
- additional budget work session on Monday, June 11, 2007, to discuss future budget projections, the City's undesignated fund balance policy, clock tower project, and homeownership assistance program
- regular meeting on Monday, June 18, 2007

**VIII. PUBLIC HEARING****An Emergency Ordinance to Amend Section 15-9, Subsection (f) of the City Code, Entitled "Solicitation in Roadways," so as to Amend the Effective Date of Ordinance O-4-07 Adopting Section 15-9(f), and Providing for Future Changes to the Effective Date by Resolution**

City Attorney Borten stated the public hearing was advertised in the May 9, 2007 issue of the *Gaithersburg Gazette*. This amendment changes the effective date in Section 15-9(f) to September 1, 2007. The amendment would provide the City a time frame in which to obtain an opinion from the Attorney General's Office as to the constitutionality of the City's ordinance. City Attorney Borten added that if additional changes to the effective date be required in the future (i.e. if it takes a longer period to obtain the opinion), the City Council may make such changes by resolution. As an emergency ordinance, if adopted, it will take effect immediately.

Speaker from the public:

*Steve Shrimen, Gaithersburg resident*, disappointed with the decision from the Attorney General's Office which stated that the City's ordinance is unconstitutional. He stated that the ordinance is currently being enforced in Virginia. He proposed that the City Council draft a new ordinance requiring licensing for day laborers to solicit business in the City if the Attorney General's Office continues to hold up the matter.

There were no other speakers at the hearing.

Motion was made by Council Member Edens, seconded by Council Member Sesma, that the Mayor and City Council close their record Wednesday, June 13, 2007, 5 p.m., on the above matter.

Vote: 5-0

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RECESSED THE MAYOR AND COUNCIL MEETING AT 8:20 P.M.  
FOR A HISTORIC DISTRICT COMMISSION MEETING AND RECONVENED AT 8:29 P.M.

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**IX. ORDINANCES, RESOLUTIONS, AND REGULATIONS****1. Resolution to Reject All Medical Insurance Benefits and to Enter Into a Contract to Provide Medical Insurance to Qualified Employees**

This resolution authorized the City Manager to enter into a contract for the above with United Health Care, 4 Taft Court, Rockville, Maryland 20852; said contract to be effective July 1, 2007.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO REJECT ALL MEDICAL INSURANCE BENEFITS BIDS RECEIVED MARCH 20, 2007, AND TO ENTER INTO A CONTRACT TO PROVIDE MEDICAL INSURANCE TO QUALIFIED EMPLOYEES (Resolution No. R-44-07), be approved.

Vote: 5-0

**2. Resolution Authorizing the Filing of an Application With the Federal Transit Administration for Federal Transportation Assistance and to Enter Into a Contract to Purchase Two Paratransit Vehicles for the Senior Center**

This resolution authorized the City Manager to enter into a contract to purchase the above vehicles from American Bus Sales and Service, 195 Defense Highway, Annapolis, Maryland 21401, in the amount of One Hundred Forty Thousand Six Hundred Ten Dollars (\$140,610); said funds to be expended from the Operating Budget.

Motion was made by Council Member Alster, seconded by, Council Member Schlichting, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR FEDERAL TRANSPORTATION ASSISTANCE AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT TO PURCHASE TWO PARATRANSIT VEHICLES FOR THE SENIOR CENTER (Resolution No. R-45-07), be approved.

Vote: 5-0

**3. RC-37 - Resolution Granting Approval of Road Code Waiver for Variable Road Sections, Radii, Intersection Spacing and Median Breaks for the Crown Farm Development, Schematic Development Plan SDP-06-005**

Planner Robinson stated that Rodgers Consulting, Inc., representing the applicant, Crown Village Farm LLC, submitted an application SDP-06-005 which included a request for road code waivers. The plan is in accordance with the approved X-182 annexation, R-82-06, and the approved rezoning to MXD and sketch plan, O-8-06. He stated that a joint public hearing was held on November 6, 2006 on SDP-06-005 which included a preservation on the requested road code waivers. The Planning Commission recommended approval of SDP-06-005 on March 21, 2007 with 23 conditions. The requested waivers does not include Fields Road or any of the roadways within Neighborhood 1. The waivers only address Neighborhoods 2 and 3 internal road network. The draft resolution was prepared for approval with the following conditions: 1) The Department of Public Works, Parks Maintenance and Engineering (DPWPME) and the City Fire Marshal will review the final design of the road code waiver requests and upon finding that the streets will operate safely with potential additional safety measures, will approve the final design of the road code waiver; and

- 2) The applicant shall provide decorative crosswalks and intersections and traffic calming devices throughout the development to be reviewed and approved by CPWPME and staff.

Motion was made by Council Member Schlichting, seconded by, Council Member Edens, that RC-37 - RESOLUTION OF THE MAYOR AND CITY COUNCIL GRANTING APPROVAL OF ROAD CODE WAIVER FOR VARIABLE ROAD SECTIONS, RADII, INTERSECTION SPACING AND MEDIAN BREAKS FOR THE CROWN FARM DEVELOPMENT, SCHEMATIC DEVELOPMENT PLAN SDP-06-005 (Resolution No. R-46-07), be approved.

Vote: 5-0

**4. Resolution to Negotiate and Execute a Contract for Construction Quality Management Services and LEEDS Commissioning for the Gaithersburg Indoor Aquatic and Recreation Center**

The above project is the largest the City has undertaken in terms of funding and square footage. The project is the City's first LEED Silver certified project and is currently under design with construction and anticipated to begin in summer 2008. This resolution authorized the City Manager to award a contract to Edward Mandley, 9906 Broad Street, Bethesda, Maryland 20814, for the above, in the estimated amount of One Hundred Forty Thousand Dollars (\$140,000 annually); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Edens, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR CONSTRUCTION QUALITY MANAGEMENT SERVICES AND LEEDS COMMISSIONING FOR THE GAITHERSBURG INDOOR AQUATIC AND RECREATION CENTER (Resolution No. R-47-07), be approved.

Vote: 5-0

**5. Resolution to Negotiate and Execute a Memorandum of Understanding (MOU) With Montgomery County Relating to Construction Funding for the Gaithersburg Aquatic/Recreation Center**

Assistant City Manager Tomasello stated that Montgomery County has agreed to provide \$6 million in construction funding for the project. He stated that the terms and conditions of the funding will be contained in a negotiated MOU between the City and the County. He further stated that county funding is restricted solely to the design and construction of the facility and provided over three separate fiscal years. Council Vice President Alster expressed concern with the operating expense in the years to come and asked staff to negotiate a reasonable period of time that the City can adjust the fee structure to operate such a facility.

Motion was made by Council Member Alster, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MEMORANDUM OF UNDERSTANDING WITH MONTGOMERY COUNTY RELATING TO CONSTRUCTION FUNDING FOR THE GAITHERSBURG AQUATIC/RECREATION CENTER (Resolution No. R-48-07), be approved.

Vote: 5-0

**6. Resolution Establishing a Mayor and City Council Travel Policy**

This resolution authorized the City Manager to establish the above policy. At the May 7, 2007, staff received guidance that the language relating to a \$50 per diem should be deleted and that all expenses should be supported by receipts. A majority of the Council also supported modification of the language that required a written explanation of meal expenses incurred that exceeded the \$65 per day limit.

Motion was made by Council Member Alster, seconded by, Council Member Edens, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ESTABLISHING A MAYOR AND CITY COUNCIL TRAVEL POLICY FOR THE CITY OF GAITHERSBURG (Resolution No. R-49-07), be approved.

Vote: 5-0

Mayor Katz recused himself from the next agenda item due to a conflict and returned following the vote for the remainder of the meeting agenda.

**7. Resolution to Negotiate and Execute Agreements Relating to the Proposed East Diamond Avenue Redevelopment Project (Archstone)**

This resolution authorized the City Manager to complete negotiations and execute various legal documents needed to move forward with the project. It was noted that the project is vital to the revitalization of redevelopment of Olde Towne.

Motion was made by Council Member Marraffa, seconded by, Council Member Schlichting, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AGREEMENTS RELATING TO THE PROPOSED EAST DIAMOND AVENUE REDEVELOPMENT PROJECT (ARCHSTONE) (Resolution No. R-50-07), be approved.

Vote: 5-0

**X. POLICY DISCUSSION AND STAFF GUIDANCE****SDP-06-005 – Resolution of the Mayor and City Council of Gaithersburg Granting Approval of Schematic Development Plan SDP-06-005, Per Annexation X-182, Known as the Crown Property (Parcels 445, 600, 905, 883, & 820) in Gaithersburg, Maryland. The property is Zoned MXD (Mixed-Use Development)**

Planner Robinson stated the proposed SDP-06-005 includes a mix of uses, including 2250 residential units and 320,000 square feet of future commercial uses. The Crown property will be divided into six neighborhoods based upon the pods approved at Sketch Plan. The above SDP application focuses primarily on Neighborhoods 2 and 3 and the associated base infrastructure needed for the entire site.

He state that a joint public hearing was held on November 6, 2006 and two additional joint work sessions were held on December 11, 2006 and January 22, 2007 addressing the various aspects of the plan. The Planning Commission closed their record on March 14, 2007 and recommended approval with 23 conditions. The Mayor and City Council record closed at 5 p.m. on May 17, 2007. The resolution contained 24 conditions which were consistent with the Planning Commission recommended conditions with the exception of #'s 1, 2, 5, 7, and 13 which have been refined since the Planning Commission recommendation and were read into the record. Council Member Schlichting complimented both staff and the applicant on a well executed package and encouraged the architect to continue to work on exciting and innovated architecture which other members agreed.

Motion was made by Council Member Sesma, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG GRANTING APPROVAL OF SCHEMATIC DEVELOPMENT PLAN SDP-06-005, PER ANNEXATION X-182, KNOWN AS THE CROWN PROPERTY (PARCELS 445, 600, 905, 883, & 820) IN GAITHERSBURG, MARYLAND. THE PROPERTY IS ZONED MXD (MIXED-USE DEVELOPMENT), (Resolution No. R-51-07), be approved with the 24 conditions, as amended.

Vote: 5-0

**XI. FROM STAFF**

- **Staff Recommendation to Close the Record on SDP-04-001, Schematic Development Plan for Quince Orchard Park, Parcel A – The Vistas, Winter Walk Drive and Quince Orchard Road**

Motion was made by Council Member Alster, seconded by Council Member Edens, that the Mayor and City Council close their record Thursday, May 31, 2007, 5 p.m., on the above.

Vote: 5-0

- **Staff Recommendation to Close the Record on MP-1-07, Historic Preservation Element**

Motion was made by Council Member Sesma, seconded by Council Member Alster, that the Mayor and City Council close their record Thursday, June 21, 2007, 5 p.m., on the above.

Vote: 5-0

- **Guidance on a Memorandum Dated May 17, 2007 Concerning Proposed Resident Parking Restrictions for West Deer Park Road, Duvall Lane, and Deer Park Lane**

Staff was directed to move forward with the proposed resident only parking restrictions on the above roads.

- **Guidance on a Memorandum Dated May 17, 2007 Concerning 2008 MML Legislative Priorities**

Staff was directed to make the hotel/motel bill a Maryland Municipal League Legislative priority for the 2008 Session.

- **Guidance on a Memorandum Dated May 16, 2007 From the Chair of the Board of Supervisors of Elections**

Motion was made by Council Member Edens, seconded by Council Member Alster, authorizing the Board of Supervisors of Elections to use the new voting equipment for the City's November 6, 2007 Election.

Vote: 5-0

Staff was directed to offer a session for the public to view the new equipment and have the session/demonstration televised.

- **Amended Testimony for 7-Eleven's Alcoholic Beverage License Renewal Rehearing**

Staff was directed to draft amended testimony to oppose the renewal of the liquor license for 7-Eleven located at 211 North Frederick Avenue. The hearing is scheduled for Thursday, June 7, 2007, 1:30 p.m. before the Montgomery County Board of License Commission. The importance of testimony from the police department was noted.

## **XII. ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:10 p.m.

Respectfully submitted,

*Doris R. Stokes*

Doris R. Stokes  
Executive Assistant